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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
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11 RAUL FERNANDEZ,

12 Plaintiff,

13 v.

14 STREMICKS HERITAGE FOODS,  
15 LLC, et al.

16 Defendants.  
17

Case No. 8:23-cv-01062-FLA (SHKx)

**ORDER TO SHOW CAUSE WHY  
ACTION SHOULD NOT BE  
REMANDED FOR LACK OF  
SUBJECT MATTER JURISDICTION**

18  
19 Federal courts are courts of “limited jurisdiction,” possessing only “power  
20 authorized by the Constitution and statute[.]” *Kokkonen v. Guardian Life Ins. Co. of*  
21 *Am.*, 511 U.S. 375, 377 (1994); U.S. Const. art. III, § 2, cl. 1. Courts are presumed to  
22 lack jurisdiction unless the contrary appears affirmatively from the record. *See*  
23 *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 342 n. 3 (2006). Additionally, federal  
24 courts have an obligation to examine jurisdiction *sua sponte* before proceeding to the  
25 merits of a case. *See Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 583 (1999).

26 The Class Action Fairness Act (“CAFA”) vests original jurisdiction in district  
27 courts over a purported class action if all the following requirements are met: (1) the  
28 amount in controversy exceeds \$5 million; (2) at least one putative class member is a

1 citizen of a state different from any defendant, and (3) the putative class exceeds 100  
2 members. 28 U.S.C. § 1332(d)(2), (5). The removing defendant bears the burden of  
3 establishing federal jurisdiction, “including any applicable amount in controversy  
4 requirement.” *Abrego Abrego v. The Dow Chem. Co.*, 443 F.3d 676, 682–83 (9th Cir.  
5 2006) (citing *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992)). However,  
6 unlike cases removed under diversity jurisdiction, “no antiremoval presumption  
7 attends cases invoking CAFA.” *Dart Cherokee Basin Operating Co., LLC v. Owens*,  
8 574 U.S. 81, 89 (2014).

9 A notice removing a case from state court to federal court must include “a  
10 plausible allegation that the amount in controversy exceeds the jurisdictional  
11 threshold.” *Id.* Where a party contests or the court questions another party’s  
12 allegations concerning the amount in controversy, both sides shall submit proof and  
13 the court must decide whether the party asserting jurisdiction has proven the amount  
14 in controversy by a preponderance of the evidence. *Id.* at 88–89; *see* 28 U.S.C. §  
15 1447 (“If at any time before final judgment it appears that the district court lacks  
16 subject matter jurisdiction, the case shall be remanded.”).

17 This procedure applies equally to the amount in controversy requirement in  
18 CAFA actions. “When plaintiffs . . . have prepared a complaint that does not assert  
19 the amount in controversy, or that affirmatively states that the amount in controversy  
20 does not exceed \$5 million, if a defendant wants to pursue a federal forum under  
21 CAFA, that defendant in a jurisdictional dispute has the burden to put forward  
22 evidence showing that the amount in controversy exceeds \$5 million . . . and to  
23 persuade the court that the estimate of damages in controversy is a reasonable one.”  
24 *Ibarra v. Manheim Invs. Inc.*, 775 F.3d 1193, 1197 (9th Cir. 2015). “Under this  
25 system, CAFA’s requirements are to be tested by consideration of real evidence and  
26 the reality of what is at stake in the litigation, using reasonable assumptions  
27 underlying the . . . theory of damages exposure.” *Id.* As a result, the party asserting  
28 jurisdiction in CAFA actions bears the burden to put forward allegations and

1 sufficient evidence that the amount in controversy exceeds \$5 million.


2 The court has reviewed the Defendant's Notice of Removal and is presently  
3 unable to conclude it has subject matter jurisdiction under CAFA. In particular, and  
4 without limitation, the court finds that the allegations in the Notice of Removal do not  
5 demonstrate by a preponderance of the evidence that the amount in controversy  
6 exceeds \$5 million.

7 Accordingly, both Plaintiff and Defendant are ORDERED TO SHOW CAUSE,  
8 in writing only, within fourteen (14) days from the date of this Order, why this action  
9 should not be remanded for lack of subject matter jurisdiction because the amount in  
10 controversy does not exceed the jurisdictional threshold. The parties are encouraged  
11 to submit evidence and/or judicially noticeable facts in response to the court's Order.  
12 Responses shall be limited to ten (10) pages in length. The parties should consider  
13 this Order to be a two-pronged inquiry into the facial and factual sufficiency of  
14 Defendant's demonstration of jurisdiction. *See Leite v. Crane Co.*, 749 F.3d 1117,  
15 1122 (9th Cir. 2014).

16 As it is the party asserting federal jurisdiction, Defendant's failure to timely  
17 respond to this Order shall result in the remand of this action without further warning.

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19 IT IS SO ORDERED.

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21 Dated: August 11, 2023

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24 FERNANDO L. AENLLE-ROCHA  
25 United States District Judge  
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